

## FACTSHEET

**TITLE: USE PERMIT NO. 15D**, an amendment to change approximately 33,020 sq. ft. of approved office use to retail use, including a request to reduce the front yard setback on South 27<sup>th</sup> Street and on Old Cheney Road, on property generally located at the northwest corner of South 27<sup>th</sup> Street and Old Cheney Road.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 10/06/10  
Administrative Action: 10/06/10

**STAFF RECOMMENDATION:** Conditional Approval.

**ASSOCIATED REQUESTS:** Change of Zone No. 10019 (10-133) and Street & Alley Vacation No. 10015 (10-134).

**RECOMMENDATION:** Conditional Approval, with amendments as requested by the applicant and agreed upon by staff (7-1: Taylor, Cornelius, Esseks, Partington, Lust, Francis and Sunderman voting 'yes'; Gaylor Baird voting 'no'; Larson absent).

### FINDINGS OF FACT:

1. This amendment to the use permit and the associated Change of Zone No. 10019 from O-3 Office Park to B-2 Planned Neighborhood Business (10-133) and Street & Alley Vacation No. 10015 (10-134) were heard before the Planning Commission at the same time.
2. The purpose of the amendment to the Southwood Center use permit is to convert 33,020 square feet of approved office uses to retail uses on 8.7 acres, more or less, including a restaurant and pharmacy. The amendment to the use permit also includes a request to reduce the front yard setback on South 27<sup>th</sup> Street and on Old Cheney Road from 20 feet to 10 feet.
3. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.7-8, concluding that the change of zone and associated use permit are in conformance with the Comprehensive Plan. The Future Land Use Map shows this area as commercial. It encourages renovation and reuse of an existing center. It will provide neighborhood services and encourage mixed use development. There will not be any increase in floor area and there should be minimal impact from increased traffic beyond the traffic that could be expected from the buildout with office uses that are authorized today. The proposed waiver is acceptable since the City will be receiving right-of-way for potential future intersection improvements. The staff presentation is found on p.12-13.
4. The updated traffic analysis submitted by the applicant dated October 4, 2010, is found on p.35-41. The revised traffic analysis did not change any of the staff comments or conditions of approval.
5. The testimony on behalf of the applicant is found on p.13-18. The applicant/developer did hold a neighborhood meeting on September 20<sup>th</sup>. The amendments to the conditions of approval proposed by the applicant (p.45) were the result of negotiations with the owners of the four-plex immediately abutting the site to the west (Also See p.15-17 and p.42-44).
6. Testimony in opposition is found on p.18-20 and the record consists of a request for a 60-day deferral, eight letters in opposition and a petition in opposition signed by 14 residents of Lone Tree at The Ridge (See p.27-41 of the Factsheet for Bill #10-133, Change of Zone No. 10019). The issues of the opposition include lack of notification and failure of the applicant to work with the neighborhood earlier in the process; access to the site; increased traffic through the neighborhood, specifically on Canterbury Lane, and safety issues; noise and light pollution; and lack of need for another pharmacy and other retail uses in the area.
7. The applicant's response to the opposition is found on p.21-22.
8. On October 6, 2010, the majority of the Planning Commission voted 7-1 to approve the staff recommendation of conditional approval, with the amendments as requested by the applicant and agreed upon by staff. Commissioner Gaylor Baird dissented for the same reasons she dissented to the change of zone, including the reduced setback and the walkability issues. Commissioner Larson was absent. (See Minutes, p.24).
9. On October 6, 2010, the majority of the Planning Commission also voted 6-2 to approve the associated Change of Zone No. 10019 and 7-1 to find the associated Street & Alley Vacation No. 10015 in conformance with the Comprehensive Plan.

**FACTSHEET PREPARED BY:** Jean L. Preister

**DATE:** October 11, 2010

**REVIEWED BY:** \_\_\_\_\_

**DATE:** October 11, 2010

**REFERENCE NUMBER:** FS\CC\2010\CZ.10019+

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 6<sup>th</sup>, 2010 PLANNING COMMISSION MEETING

**\*\*As Revised and recommended for Conditional Approval  
by Planning Commission: October 6, 2010\*\***

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

**PROJECT #:** Change of Zone No. 10019  
**Use Permit No. 15D**

**PROPOSAL:** **Use Permit No. 15D to amend the use permit for Southwood Center to convert 33,020 square feet of approved office uses to retail uses including a restaurant and pharmacy.**

Change of Zone No. 10019 to change the zoning on Lot 1 Southwood Center from O-3 Office Park to B-2 Planned Neighborhood Commercial District

**LOCATION:** Northwest corner of S. 27<sup>th</sup> Street and Old Cheney Road

**LAND AREA:** Use Permit is approximately 8.7 acres more or less  
Change of Zone is approximately 3.9 acres more or less

**EXISTING ZONING:** O-3 Office Park district

**WAIVER REQUEST/MODIFICATION:** To reduce the front yard setback on S. 27<sup>th</sup> Street and on Old Cheney Road from 20 feet to 10 feet.

**CONCLUSION:** The Change of Zone and Use Permit are in conformance with the Comprehensive Plan. The Future Land Use Map shows this area as commercial. It encourages renovation and reuse of an existing center. It will provide neighborhood services and encourage mixed use development. There will not be any increase in floor area and there should be minimal impact from increased traffic beyond the traffic that could be expected from the build-out with office uses that are authorized today. The proposed waiver is acceptable since the City will be receiving right-of-way for potential future intersection improvements.

<b><u>USE PERMIT RECOMMENDATION:</u></b>	<b><u>Conditional Approval</u></b>
<b>CHANGE OF ZONE RECOMMENDATION:</b>	Approval
Waivers/modifications:	
<b><u>Reduce the required front yard setback from 20 feet to 10 feet</u></b>	<b><u>Approval</u></b>

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Use Permit: Lot 6, Block 14, Southwood 1<sup>st</sup> Addition, Lots 1-5, Southwood Center, located in the SE 1/4 of Section 12-9-6, Lancaster County, Nebraska.

Change of Zone: Lot 1, Southwood 1<sup>st</sup> Addition, located in the SE 1/4 of Section 12-9-6, Lancaster County, Nebraska,

**EXISTING LAND USE:** Offices

**SURROUNDING LAND USE AND ZONING:**

North:	R-1 Residential	Church
South:	R-1 Residential	Domiciliary Care Facility and Alltel switching/utility building
East:	P Public	Fire station
	R-3 Residential	Multifamily complex
West:	R-1 Residential	Community Unit Plan with multifamily, two family and single family residential units

**ASSOCIATED APPLICATIONS:** Street and Alley Vacation # 10015 to vacate the street stub west of S. 27<sup>th</sup> Street north of Old Cheney in the Use permit area.

**HISTORY:**

June 1964	Changed from AA Rural and Public Use to G-1 Planned Commercial on what would become Lots 1-5 Southwood Center.
August 1968	Lot 6, Block 14, Southwood 1 <sup>st</sup> Addition was rezoned from A-1 Single Family to G-1 Planned Commercial.
1973	Lincoln Mutual Life Insurance Building was built.
May 1979	The area was changed from G-1 to B-2 Planned Neighborhood Business during the 1979 Zoning Update.
June 1979	A Use Permit #1 was granted for a bank.(See lot 2 on attached Exhibit A).
June 1982	Use Permit #15 was approved for an office/retail park. (See lots 3,4 and 5 on attached Exhibit A)
November 1986	Use Permit #15A was originally applied for the provisions of the B-2 zoning district on Lot 6, Block 14 Southwood 1 <sup>st</sup> Addition (owned by Whitehead Oil) which included a 2,132 square feet of office and 2,500 square feet of convenience store/gas station. (See area zoned B-2 on attached Exhibit A)
February 1987	Planning Commission recommended approval of a use permit that would include convenience/gas station and office space. Prior to approval of the use permit application, the City Council approved another change of zone on the

property to O-3. In an ensuing lawsuit, the court ordered that the zoning be changed back to B-2 and the use permit be approved.

- February 1987 Lincoln Mutual Life applied for a Change of Zone from B-2 to O-3.(See lots and 1-5 on attached Exhibit A)
- June 1987 Use Permit #15B for a 51,600 square foot office park) and a change of zone from B-2 to O-3 was approved. (See lots and 1-5 on attached Exhibit A)
- July 25, 1994 Use Permit #15A was approved by City Council.
- July 1996 Use Permit #15A was rescinded on Lot 6, block 14 by the new owner (Lincoln Mutual Life) (See area zoned B-2 on attached Exhibit A)

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

This area is shown as Commercial on the future Landuse map (19)

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. As additional centers are built, the City and developers should be proactive in redevelopment of existing centers to make sure that redevelopment is sensitive to the surrounding neighborhood and happens quickly to reduce vacancies.(36)

“Commerce Centers” are defined as areas containing a mix of retail, office, services and residential uses, with some light manufacturing and warehousing in selected circumstances. Commerce Centers can include shopping centers or districts (such as neighborhood centers, large scale retail malls, strip centers, and traditional store-front retail settings), office parks, business parks, stand-alone corporate office campuses, research and technology parks, and Downtown Lincoln. The term “commerce center” is meant to be inclusive, not prescriptive.(41)

The key to both new and existing urban neighborhoods is diversity. For new neighborhoods, it is having a greater mix of housing types and land uses. New neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities. Developing a pedestrian orientation of buildings and streets is also a priority for new areas. For existing neighborhoods, the diversity is often already in place, but efforts must focus on maintaining this balance and variety.(71)

Pedestrians should be able to walk in a reasonably direct path to destinations like transit stops, schools, parks, and commercial and mixed-use activity centers.(91)

### **UTILITIES: Public Works and Utilities notes the following:**

1. Public water mains are available in the public streets abutting this use permit and are adequate to provide service to the proposed lots.
2. Public sanitary sewer is available to serve this site along Canterbury, Old Cheney Road and along the west property line between Canterbury and Old Cheney. This sewer should be shown on the site plan to determine if a sanitary sewer easement is required along the west line sewer. Anticipated sewer services should be shown to the various lots. Lot 5 will not have access to abutting sewer if the anticipated lots are more than the building envelopes. The existing sewer service to Lot 2 should also be shown since the most direct access for

its service appears to be thru a building on Lot 4.

3. If the proposed lots were to be re-platted using the lines shown on the use permit instead of the proposed building envelopes, there could be some issues with sewer and water service. The applicant should clarify where the proposed lot lines will be and how they will get service. A private sewer system may be required to serve the lots as laid out in this site plan.
4. The drainage study sizing the parking lot storm sewer is satisfactory. The plans shows a detention facility. Calculations for the storm water detention have not been submitted. The applicant will be required to submit storm water detention calculations subject to the approval of Public Works.

**TOPOGRAPHY:** The property significantly slopes to the northwest.

**TRAFFIC ANALYSIS:** S. 27<sup>th</sup> Street and Old Cheney Road are shown as minor arterial streets in the 2030 Functional Street & Road Classification Map. Canterbury Lane and Jameson North are local streets.

Public Works and Utilities notes the following:

1. Public Works has requested dedication of ROW to subdivision standard of 60' from centerline on both 27<sup>th</sup> and Old Cheney Road. The applicant has agreed to dedicate the additional right-of-way and build a right hand turn lane in Old Cheney Road.
2. There appears to be a potential stacking problem at the 27<sup>th</sup> right-in right-out driveway. If more than one or two cars are waiting to turn into 27<sup>th</sup> they will potentially block access to the retail and pharmacy parking. The entering cars from 27<sup>th</sup> waiting to turn left into the parking will need to stack until there is an opening, leaving a potential for stacking out into 27<sup>th</sup>. The applicant has agreed to work with Public Works correct this problem.
3. There is also a median break at the 27<sup>th</sup> Street access across from the fire station. This median break as well as the location of the existing bank drive-thru creates a head to head conflict with traffic entering from 27<sup>th</sup> street, cars exiting the bank drive-thru and cars trying to exit at the median opening to go north on S. 27<sup>th</sup> Street. The applicant should work with Public Works to reconstruct the driveway and protect the median opening for the Fire Station.
4. The proposed driveway to Old Cheney Road is shown as 3 lanes wide. Due to the high volumes and potential high speeds on Old Cheney Public Works will not approve a 3 lane wide driveway as shown. Cars waiting to turn left obstruct sight distance for cars turning right. The driveway should be a maximum of 25 feet side at the throat unless it can be shown that additional width is necessary.

5. The south driveway to Canterbury does not appear to be necessary and the contours on the grading plan show it to be relatively steep. It also creates a third driveway where headlights could shine in to the residential across the street. Staff has made it a condition in this report that this third driveway be removed.
6. The applicant has asked for a vacation of the existing right-of-way north of Old Cheney. Public Works has stated that a signal will not be installed at the location of the existing right-of-way stub, so the requirement of a stub for the median break will not be necessary.
7. A driveway connecting the proposed lots on the south to the existing drive aisles on the north should be installed when the corner lot is developed to provide access to the full median opening onto 27th Street.

**PUBLIC SERVICE:** There is a fire station located on the east side of S. 27<sup>th</sup> Street across from this application. Hill Elementary School is located approximately 800 feet from the proposed application site.

**REGIONAL ISSUES:** There are neighborhood centers located 1 mile east at the corner of 40<sup>th</sup> and Old Cheney and 1 mile west at 14<sup>th</sup> and Old Cheney Road. There is a regional shopping center located 1 mile south at S. 27<sup>th</sup> and Pine Lake Road and a neighborhood shopping center located 1 mile north at S. 27<sup>th</sup> Street and Highway 2.

The Comprehensive Plan describes a Neighborhood Center as “ Neighborhood centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. A typical center will have numerous smaller shops and offices and may include one or two anchor stores. In general, an anchor store should occupy about a third to half of the total space. In centers meeting the incentive criteria, anchor store(s) may be larger noting that the goals of a Neighborhood Centers are to be diverse and not simply one store. Examples include such as Lenox Village at S. 70th and Pioneers Boulevard, and Coddington Park Center at West A and Coddington. These smaller centers will not include manufacturing uses.”(45)

A Regional Shopping Center is described as “ Regional Centers typically include a unique blend of commercial and other compatible land uses. Within this type of center, one may find retail shopping, restaurants, entertainment complexes, cultural and artistic institutions, offices, personal and business service facilities, and public institutions and governmental functions. The scale of such centers can offer a sense of place with a unique character or cohesive theme.” (42)

Although this corner is not shown on the “commercial centers” map in the Comprehensive Plan, it is shown as commercial on the future land use map. Commercial on the future land use map does not necessarily imply that the land is designated for retail; it could also be office or any other type of commercial use.

**AESTHETIC CONSIDERATIONS:** There are numerous mature trees on the site that provide buffers between the residential and the commercial development. As many of these trees should be preserved as possible to maintain the existing buffer. Additional landscaping should be provided along Canterbury Lane in the proposed B-2 zoning district. Staff has recommended and the

applicant has agreed to additional landscaping in the 20' front yard setback along Canterbury Lane. The landscape screen shall be evenly distributed horizontally, however, it may vary in height so as to screen at least sixty percent (60%) of the surface area of a vertical plane extending along the entire length of the property line and from the ground elevation to a height of ten feet (10') above the adjacent ground elevation. This screen shall generally be located adjacent to the property line.

**ALTERNATIVE USES:** Leave the property zoned O-3 as it is today. Revise the site plan to accommodate only those uses allowed in the O-3 district.

**ANALYSIS:**

1. The application is to revise the southern portion of an existing use permit which currently is authorized for 46,240 square feet of office space, to allow up 33,020 square feet to convert to retail, which could include a pharmacy and up to 7,480 square feet of restaurant space. It would also include an increase of 589 square feet of office on Lot 5 (See Exhibit A). The overall floor area for this use permit would be reduced by 1,411 square feet.
2. The applicant has submitted a traffic report that projects a total PM peak hour trip count of 233 based on converting 33,020 square feet from office to retail. This is an increase of 107 PM peak hour trips over what is approved today. (This traffic report only focuses on changes to Lot 1. Lot 5 to the north is vacant but currently approved for 13,811 square feet.)
3. One of the neighborhood's major concerns was the increase of potential traffic on Canterbury Lane. The majority of additional trips should take access from and to S. 27<sup>th</sup> Street or Old Cheney Road. The traffic report indicated that 10% of the total PM peak hour trips would be distributed to Canterbury Lane. That means the projected traffic on Canterbury would be (233 trips x 10% ) approximately 23 trips. It would be reasonable to assume that half of the 23 trips would go south and half would go north, adding 11 to 12 trips to Canterbury headed south and 11 to 12 trips on Canterbury headed north at the PM peak hour. If Lot 1 was fully built out for office uses currently approved, one would expect 13 trips to utilize Canterbury with half going north and half going south. Staff has stated as a condition of approval in this report that the proposed 3<sup>rd</sup> drive way shown on the site plan is not necessary and should be removed.
4. When this corner was planned for commercial development and the residential neighborhood was platted, lots were reserved for multifamily units along Canterbury to help buffer the single family uses from the Commercial Center. This concept is in conformance with the Comprehensive Plan. "*Multi-family and elderly housing nearest to commercial area; (pg66)*" When this area was platted, Canterbury was intended to be used for internal circulation and access for the neighborhood to the commercial center.

5. The applicant met with neighbors on Monday September 20th. There were 19 people in attendance. These neighbors expressed concerns about increased traffic on this already congested street if this property is re-zoned for retail and restaurant uses.
6. The applicant has asked for a waiver to reduce the required front yard on S. 27<sup>th</sup> Street and on Old Cheney Road from 20 feet to 10 feet. The zoning ordinance requires “The entire front yard shall be entirely landscaped, except for necessary paving of walkways and driveways to reach parking and loading areas, provided that any driveway in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet”. This means that parking and drive isles are not permitted in the front yard setback. The proposed waiver is acceptable since the City will be receiving right-of-way for potential future intersection improvements. Without the dedication of right-of-way the front yard setback waiver would not be required.
7. The existing landscape screen should be retained, particularly along the west side of the existing B-2 zoned area, since there is not a road that would separate the abutting residential lot from the proposed development. Additional landscaping should be required along Canterbury to better buffer the residential and the commercial development. The applicant has added a note to the site plan based on Planning Department’s suggestion to address this issue.

This approval permits the conversion of 33,020 square feet of approved office uses to retail uses including a restaurant and pharmacy, as well as a waiver to the front yard setback on S. 27<sup>th</sup> Street and Old Cheney Road from 20 feet to 10 feet.

**CONDITIONS OF APPROVAL:**

**Site Specific Conditions for Use Permit #15D:**

1. The City Council approves associated request:
  - 1.1 Change of Zone # 10019
2. The developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including **5** copies with all required revisions and documents as listed below upon approval before receiving building permits:
  - 2.1 Reconstruct the driveway and protect the median opening for the Fire Station from being utilized for north bound movements.
  - 2.2 Show the delivery vehicle movement path to verify the drive width openings.
  - 2.3 Show how the proposed lots will be served with sewer and water.
  - 2.4 Add a note to the site plan that says a connection to from Lots 5 and 6 to lot 1 will be made at the time of building permit for Lots 5 and 6.

- 2.5 Submit storm water detention calculations to the satisfaction of Public Works.
- 2.6 Dedicate appropriate right-of-way so that Old Cheney and S. 27<sup>th</sup> Street are to the subdivision standard 60' from centerline on both 27th and Old Cheney Road.
- 2.7 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the use permit has been recorded.
- 2.8 The requested right-of-way has been dedicated and filed at the Register of Deeds.
- 2.9 Provide a site traffic study to show entering and exiting trips at the site driveways.
- 2.10 Revise the drive off of Old Cheney Road to be no more than two lanes and 25' wide, unless it can be shown that additional width is necessary. If the drive remains wider than 25' it shall be striped as a two-lane drive. (**\*\*Per Planning Commission at the request of the applicant and agreed upon by staff, 10/06/10\*\***)
- 2.11 Remove ~~the southern most~~ one access to Canterbury Lane. (**\*\*Per Planning Commission at the request of the applicant and agreed upon by staff, 10/06/10\*\***)
- 2.12 Remove the note "Limits of Existing Building to be Removed from Use Permit 15C" on Lot 4 and Lot 1 that refer to building envelopes not constructed buildings.
- 2.13 Add a note that says alcohol sales is permitted in the B-2 zoning district (except in the western 1/3 of the building on Lot 7) as long as all conditions under 27.31.040 are met. (**\*\*Per Planning Commission at the request of the applicant and agreed upon by staff, 10/06/10\*\***)
- 2.14 Correct the land use table to show a 45 foot maximum height in the O-3 zoning district
- 2.15 Add a note stating Design Standards for Pedestrian Circulation in Commercial and Industrial Area will be met at the time of building permit.
- 2.16 Show existing trees in on the site plan and indicate which ones are to be removed.
- 2.17 At such time as the building and associated parking on Lot 7 are constructed:
  - A. Place a combination of landscaping and fence, to be evenly distributed horizontally; however, it may vary in height so as to screen at least sixty percent (60%) of the surface area of a vertical plane extending along the entire length of the property line and from the ground elevation to a height of ten feet (10') above the adjacent ground elevation.

- B. Prepare and implement a landscape plan for the area along the west property line on the Assurity side of the fence which exceeds minimum city standards.
- C. In the area between the SW corner of the Assurity property and the parking lot, plant a grouping of shrubs which will deter pedestrians from traversing the site from south to north between the parking lot and Canterbury (i.e. barberry bushes).
- D. In the area immediately abutting the west side of the parking lot, provide a 100% screen from ground level to 3 feet to prevent car headlights from shining in windows of the fourplex. This could be accomplished by a low fence, or evergreen bushes such as yews, or junipers.
- E. Parking lot lighting to have cutoff fixtures, directed away from the west property line (as required by City Design Standards).
- F. Any licensed alcohol sales in the building on Lot 7 will be located in the east two-thirds of the building.

2.18 No gasoline sales are permitted.

2.19 Conditions #2.13, #2.17 and #2.18 were negotiated with the neighbors and shall not be administratively amended but may be amended by Planning Commission.

**(\*\*Per Planning Commission at the request of the applicant and agreed upon by staff, 10/06/10\*\*)**

3. Prior to the issuance of a building permit:

3. The construction plans substantially comply with the approved plans.

**Standard Conditions:**

4. The following conditions are applicable to all requests:

4.1 Before occupying buildings all development and construction is to substantially comply with the approved plans.

4.2 All privately-owned improvements, including landscaping are to be permanently maintained by the owner or an appropriately established association approved by the City.

4.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.

4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant
- 4.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.

Prepared by

Christy Eichorn  
Planner

**DATE:** September 23, 2010

**APPLICANT:** Olsson Associates  
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**OWNER:** Assurity Life Insurance Co  
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**CHANGE OF ZONE NO. 10019,  
USE PERMIT NO. 15D  
and  
STREET & ALLEY VACATION NO. 10015**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 6, 2010

Members present: Cornelius, Taylor, Esseks, Larson, Partington, Gaylor Baird, Lust, Francis and Sunderman (Commissioner Larson left during this public hearing).

Ex Parte Communications: None.

Staff recommendation: Approval of the change of zone, conditional approval of the amendment to the use permit, and a finding of conformance with the Comprehensive Plan on the street vacation.

Staff presentation: **Christy Eichorn of Planning staff** explained that this proposal includes a change of zone from O-3 Office Park to B-2 Planned Neighborhood Business, an amendment to an existing use permit (the area of the use permit being amended is primarily in the area being rezoned from O-3 to B-2), and street and alley vacation to vacate the street stub that is just east of the B-2 area.

The applicant is essentially asking to move from O-3 to B-2 in order to convert approximately 33,000 square feet of office use to retail use. And within the 33,000 square feet, approximately 13,300 square feet would be used for a pharmacy and approximately 7,480 could potentially be used for restaurant purposes.

The applicant has submitted a revised traffic study. The change in the revised traffic study (increase of 20 PM peak hour trips) does not change any of the comments or conditions listed in the staff report.

Eichorn noted that one specific question regarding traffic was the description of the 10% of the PM peak hour trips that would go out onto Canterbury. The staff report indicates that half of those trips would go north and half would go south. It has also been determined that those trips would be coming from the neighborhood.

Eichorn then discussed the waiver of the front yard setbacks from 20' to 10' on S. 27<sup>th</sup> and on Old Cheney Road. When the application was first submitted, it was showing a 20' setback, but because they are required to put in a right hand turn lane on Old Cheney Road, the staff requested that they move the sidewalk off the curb on 27<sup>th</sup> Street. The applicant has offered to do that and provide a public access easement. The city would prefer that to be dedicated right-of-way, which occurs through a platting process. The City has agreed to reduce the setback from 20' to 10' in order for the City to get dedicated right-of-way for potential future intersection improvements.

If the City is gaining some right-of-way and then there is also a waiver granted, and if the City then decides to expand S. 27<sup>th</sup> Street, Gaylor Baird is concerned about potentially ending up with a

situation where the sidewalk is abutting the parking lot without any green space. Eichorn explained that to be why the staff was asking for an additional 10' of right-of-way on 27<sup>th</sup> Street. How much that would get expanded and how much room would be needed would be a question for Public Works staff. The intent was to have an additional 10' of right-of-way on Old Cheney Road as well as on S. 27<sup>th</sup> Street to get the sidewalks off of the curb and to give the City room to do improvements to that intersection, if needed, as well as to move the sidewalk, if needed.

Lust sought confirmation that if the City expands South 27<sup>th</sup> Street, this extra 10' is enough to keep the sidewalk from being right on the street. Eichorn's response was that the Comprehensive Plan suggests that we need to have at least 60' of right-of-way on Old Cheney Road and on South 27<sup>th</sup> Street, and we don't have that today. That's what the 10' gives to us. The direction that we have from Public Works is that they need an additional 10 feet of right-of-way to have enough space for potential improvements to the intersection. Gaylor Baird believes that will eventually squeeze the green space. Eichorn agreed that if they move the sidewalk further west, that would be true.

### Proponents

1. **John Badami**, Architect with **DLR Group**, testified on behalf of the applicant. They are proposing this development in three phases. The first phase would be a new CVS Pharmacy building to the south (about 13,225 sq. ft.), and attached to that CVS would be a retail building of about 8,500 sq. ft. The existing office building currently on the site would be demolished. After study through the owner, they have found that that building, once designed for a single use occupant, would be difficult to rent. There are also asbestos issues which would make it very difficult to renovate. After doing the number crunching to rehabilitate that building, they have found it would not be feasible.

Phase two would be a future office and retail building to the west (11,740 sq. ft., two story building). The side of the building facing Old Cheney Road would be the retail side, and then as you go to the back of the building, you would enter on the lower level, which would be commercial side.

Phase three would be another future office building (8,670 sq. ft.), along with the existing office building to the north. The existing Bank of the West and another office building to the north would remain in place.

Badami pointed out that there is a considerable amount of grade change (about 20') from the corner of 27<sup>th</sup> Street and Old Cheney Road down to Canterbury Lane. The retail is at the corner of Old Cheney Road and South 27<sup>th</sup> Street, with the commercial spaces at the lower grades.

Badami then showed 3-D images of the site, indicating that there will be quite a bit of screening and landscaping, which was a concern to the residents of Southwood. Assurity is willing to provide ample screening above and beyond what is required.

Lust inquired about the space in front of the future office/retail. Badami explained that they are required to have some type of retention pond for water runoff so it would be green space.

The applicant has agreed to provide screening all along the new development at the request of the neighbors.

Badami believes there are several positives to this project. The developers are Lincoln residents and have done business in Lincoln for over one hundred years. Assurity has a track record of doing projects in the right way. They do have an interest in working with the neighbors to make this a positive development to the neighborhood and future tenants.

Badami also suggested that this project supports the principles of new urbanism proven to be key in successful developments of neighborhoods, such as College View, Havelock, Fallbrook and Village Gardens. Some of the principles include walkability, providing services and business within 10 minutes of home and work; mixed use and diversity; mixed housing with a range of types, sizes and prices in close proximity; increased density with more buildings, residences and shops close together to make efficient use of services and resources. The benefits to the residents and neighborhood include higher quality of life and better places to live and work; higher and more stable property values; less driving; close proximity to retail services; pedestrian friendly neighborhood; and more efficient use of tax money. The benefits to the City include stable appreciating tax base; less spent per capita on infrastructure and utilities; less traffic congestion due to walkability design; and better overall community image and sense of place.

Badami believes that this development will be beneficial to the neighborhood and the city. Assurity is interested in working with the neighbors to make sure this is a successful development.

Lust noted that two of the concerns that the neighbors have expressed are the increased light and noise pollution from this development. What steps architecturally is the developer taking to mitigate those issues? Badami stated that there are requirements for lighting next to neighborhoods and the developer will comply with all requirements to be sure that light pollution is mitigated as much as possible. As far as noise, the advantage is the topography of the site. The new buildings and the landscaping will help to buffer against sound and traffic along Old Cheney Road and 27<sup>th</sup> Street.

Francis asked Badami to show the traffic access from 27<sup>th</sup> Street and Old Cheney Road into the new development. There has been some concern about access to Canterbury. Badami stated that there are two existing points of access along Canterbury and there is a third access proposed. The access from 27<sup>th</sup> Street will be just north of West Gate Bank along with the other existing access. The Old Cheney Road access is existing today. All of the driveways proposed are already in existence. Although Sunderman pointed out that the access points closest to 27<sup>th</sup> Street and Old Cheney Road will go away.

Esseks confirmed the location of the traffic light for the benefit of those wanting to go north on 27<sup>th</sup> Street.

Gaylor Baird stated that it is not clear to her where it is safe for a pedestrian to walk within this development. Badami acknowledged that this has been discussed. He believes there are ways to integrate good pedestrian traffic through the development and they do need to have further

discussions with the neighborhood on that issue. Gaylor Baird urged that this is really important, especially if it is being argued that it is helping neighbors to the west. It has to be safe, easy, clear and delineated in the site plan.

**2. Mark Hunzeker** appeared on behalf of **Assurity Life Insurance Company and CVS Pharmacy**. This site is at 27<sup>th</sup> & Old Cheney Road, both of which are major arterials. The site is designated commercial in the Comprehensive Plan and it has been that way for over 30 years. The staff report does an excellent job of reviewing the Comprehensive Plan support for this project at this location. This proposal is to revise an existing use permit, which provides for an existing office building and an additional office building, not yet constructed, as well as commensurate parking.

The existing building is about 40 years old and it is not feasible to redevelop or reuse that structure. It was not constructed to be a multi-tenant building and there are multiple issues with respect to asbestos, ADA and other physical obsolescence type problems that make it uneconomical to redevelop.

This is a proposal for 33,000 square feet of retail space on the site in lieu of that amount of office space. The total square footage is nominally reduced under the overall use permit. This is a retail area that would serve the neighborhood. The amount of retail space is somewhere around 50 to 60 percent of the size of Clocktower – we are not talking about a lot of space, but it is very conveniently located and should serve many of the same types of functions. Mixed use and neighborhood oriented convenience type retail is encouraged in the Comprehensive Plan.

Hunzeker also pointed out that the traffic study shows insignificant changes in site trips over the currently approved use permit, and Public Works has found the study to be acceptable.

The developer did send out a notice and had a neighborhood meeting on September 27<sup>th</sup> (later corrected to September 20<sup>th</sup>). Notices were mailed to property owners well beyond the area required to be notified in a change of zone or use permit. At that meeting, the developer offered to meet with and discuss ways to improve the project from the neighbors' perspective, after which they had two contacts. They met with Don Nelson and with the Lambrechts, who own the four-plex immediately abutting the site to the west. They never heard back from Mr. Nelson. The developer has agreed to a list of things which the owners of the four-plex felt were important, and those items have been incorporated into a motion to amend.

Hunzeker then discussed the proposed amendments to the conditions of approval on the use permit:

- 2.10 Revise the drive off of Old Cheney Road to be no more than two lanes and 25' wide, unless it can be shown that additional width is necessary. If the drive remains wider than 25' it shall be striped as a two-lane drive.

Hunzeker believes there is agreement with staff that the additional width for the driveway on Old Cheney Road is necessary so he is suggesting to add that language, and if the drive remains wider than 25', that it would be striped as a two-lane access rather than two lanes outbound and one in.

2.11 Remove ~~the southern most~~ one access to Canterbury Lane.

The staff requested that the southernmost access point to Canterbury Lane be removed. The additional access point was proposed because Public Works usually does not want a dead-end parking lot. The developer does not object to the idea of removing an access point to Canterbury Lane, but they we need to agree upon which one.

2.13 Add a note that says alcohol sales is permitted in the B-2 zoning district (except in the western 1/3 of the building on Lot 7) as long as all conditions under 27.31.040 are met.

They have agreed to except the western one-third of the building on Lot 7 from alcohol sales. In response to a concern by the neighbor (Lambrecht), the developer has agreed to keep any sort of restaurant or any kind of licensee that would sell alcohol of any kind in the eastern 2/3rds of this building, putting the licensed premise at least 160' away from the property line of that neighbor.

2.17 At such time as the building and associated parking on Lot 7 are constructed:

- A. Place a combination of landscaping and fence, to be evenly distributed horizontally; however, it may vary in height so as to screen at least sixty percent (60%) of the surface area of a vertical plane extending along the entire length of the property line and from the ground elevation to a height of ten feet (10') above the adjacent ground elevation.
- B. Prepare and implement a landscape plan for the area along the west property line on the Assurity side of the fence which exceeds minimum city standards.
- C. In the area between the SW corner of the Assurity property and the parking lot, plant a grouping of shrubs which will deter pedestrians from traversing the site from south to north between the parking lot and Canterbury (i.e. barberry bushes).
- D. In the area immediately abutting the west side of the parking lot, provide a 100% screen from ground level to 3 feet to prevent car headlights from shining in windows of the fourplex. This could be accomplished by a low fence, or evergreen bushes such as yews, or junipers.
- E. Parking lot lighting to have cutoff fixtures, directed away from the west property line (as required by City Design Standards).
- F. Any licensed alcohol sales in the building on Lot 7 will be located in the east two-thirds of the building.

Hunzeker offered Condition #2.17 as a new condition to reflect the negotiations and agreement the developer has reached with the Lambrechts. This incorporates a standard of landscaping and screening which has been shown on the Canterbury side. That landscaping and screening will be extended along the west property line in order to protect that four-plex. Condition #2.17.F. addresses the alcohol issue.

2.18 No gasoline sales are permitted.

Hunzeker noted that there was a concern raised in one of the e-mails as to the possibility of gasoline sales, and the developer has agreed that there will be no gasoline sales on the site.

2.19 Conditions #2.13, #2.17 and #2.18 were negotiated with the neighbors and shall not be administratively amended but may be amended by Planning Commission.

Condition #2.19 provides that all the conditions of approval negotiated with the neighbors cannot be administratively amended, but only amended by public hearing before Planning Commission.

Hunzeker submitted that the built environment in a city like Lincoln is dynamic. We are undergoing changes constantly. Lifestyles, consumer preferences, and technology all change over time. This site has served its purpose as an insurance company home office and it is time to reuse this site for a purpose more in line with existing conditions. We are only talking about 33,000 square feet of retail and restaurant use. That is a very modest component of a site that encompasses over 100,000 square feet of office space and other kinds of uses. It is actually about half the size of the 1970's vision of a neighborhood shopping center. It is about 10-15% of what we now consider to be a neighborhood scale center. The developer believes that the addition of retail space to this site, with the mixed uses proposed, make sense without imposing unduly upon existing residential areas. If we are serious about the concept of mixed use and pedestrian friendly development patterns, we need to be able to redevelop sites like this in order to utilize that concept. Hunzeker urged that this project makes a lot of sense and it is not by any means an aggressive use of the site. If you compare the land area to the floor area, you would find that the ratios are pretty low compared to some of the newer sites in this community.

Esseks sought confirmation of where alcoholic beverages may be sold on the site. Hunzeker pointed to the map – it will be in the CVS building and in part of the office building. At its closest point, it will be about 90' from the property line, but they are agreeing that the western 1/3 of the office building cannot be used for that purpose, thus pushing that line to be 160' from the property line.

Lust also expressed concern about pedestrian friendliness, and noticed that Condition #2.15 requires meeting the pedestrian circulation standards. What does this mean? Hunzeker agreed that there is a requirement to meet the city's pedestrian circulation standards. There are a number of ways to make pedestrian connections. For example, if we take the Public Works option and eliminate the one curb cut, the entire area could be green space, enabling people to get to the retail level. There will be a requirement to stripe pedestrian walkways through the parking lot to get to CVS and the retail building. There are fairly specific requirements that have been met by other projects that he is confident can also be met with this site. They have no objection to meeting those standards.

Francis wanted to know whether this prevents the next owner from not putting in a gas station. Hunzeker indicated that to be the purpose of Condition #2.13.F. This amendment would prohibit that. Anybody who wanted to do that would have to come back to the Planning Commission for an amendment. Hunzeker also suggested that the site is too valuable for retail space to do that.

Having been through a process to put a gas station on this site was not easy, and once the use permit is developed, it would be even harder to do. Assurity intends to hold this property in their real estate portfolio and they do not intend to sell it. The CVS site is a leased site. Assurity does not want a gas station there and he believes the potential is extremely remote.

## Opposition

**1. Don Nelson**, 2430 S. Canterbury Lane, since August of 1984, testified in opposition. He is either the first closest or second closest single family residence. The first that the neighborhood learned of this project was three weeks ago in the Lincoln Journal Star, and they were shocked because this site was the location of a titanic decades-long struggle over the 80's and 90's gas station project. The controversy was ultimately decided by the Supreme Court and the City of Lincoln taxpayers paid a significant amount which resulted in this small office park. He suggested that the Commission consider that both the city and taxpayers have a vested interest in the current land use.

The neighbors had hoped to be contacted early if redevelopment plans were proposed, and this proved not to be the case. Quite the contrary occurred. Only on September 11<sup>th</sup> were the property owner notifications sent out, and incredibly the Seven Oaks Homeowners Association, which is not even part of this area, was notified. His neighborhood, the Southwood Homeowners Association, had no such notification. The Association has finally been notified and they have had their first meeting. There were several conditions that he thought would have to take place before he could meet again with Mr. Hunzeker.

The Southwood neighbors feel like they have been kept in the dark and shortened the amount of time to analyze the project and organize their thoughts and put forth a cogent argument for the status quo. Moreover, they sort of feel like the victims of this titanic struggle going on nationwide between Walgreens and CVS. We have seen neighborhood wishes pushed aside elsewhere in Lincoln as well as in Omaha as these two corporations expand and reach into the neighborhoods.

Nelson suggested that the city itself has a vital interest in this property. The Lincoln Fire and Rescue Station is directly across the driveway on South 27<sup>th</sup> Street. The City owns the still vacant northeast corner of 27<sup>th</sup> & Old Cheney Road. The intersection itself was the 19<sup>th</sup> most dangerous in 2008 and he is told that it has advanced considerably up that list since then, although the data has not yet been updated.

Nelson believes that this paperwork raises many questions that point to the need to slow the approval process down so that twelve or so elements and issues can be carefully evaluated.

Nelson pointed out that the lots slope severely from east to west and from north to south. This development will move massive amounts of soil from high to low areas and a deep retention pond is proposed. This needs more consideration.

The lighting of the project will require unique technology as some of the project elevations will be close to the same as the window elevations in many nearby homes. Moreover, the signage needs to look more like Ft. Collins, Colorado, or Scottsdale, Arizona, in order to conform to the characteristics of the adjacent neighborhood. 24-hour signs should be forbidden.

Nelson also believes that there remain many important questions surrounding the ingress and egress. The four or five foot incline up to Old Cheney Road on the north side can prove very problematic during rush hours and inclement weather. Will the existing median cut be closed? His call to the city department remains unanswered. Street parking is problematic. The street is a bus route and has severe sight limitations. Parking is banned on the south and east side of the curb. Snow and ice can make the steep climb nearly impossible from the west and almost impassible.

Another problem is that only approximately one-third of the eventual buildout uses are known.

Nelson urged the Planning Commission to put this application on hold so that the affected businesses and residents can be part of the process that should have taken place over the past few months. Many of these problems and questions need far more discussion and thoughtful resolution.

Nelson stated that he has not had an opportunity to review Mr. Hunzeker's motion to amend, but it does sound to be toward the direction that he is recommending. However, he reiterated his request that the Planning Commission either slow down the project or postpone a decision until the neighbors have a chance to talk some of these things out.

Taylor asked Nelson when he was contacted. Nelson stated that the first knowledge he had was when the general public read it in the newspaper on a Saturday morning about three weeks ago; and then the first contact he had was when he received Mr. Hunzeker's letter with an invitation to a meeting at the library on South 14<sup>th</sup> Street, which took place on September 27<sup>th</sup> (later corrected to September 20<sup>th</sup>).

Lust wanted to know who was not contacted. Nelson suggested that in a measure of fairness, the developers should have contacted either the neighborhood association or the nearby neighbors two months ago. They should have made contact with the official homeowners association at the time the process was launched. Someone made the decision to contact a homeowners association that is across the street from this project.

Lust confirmed with Nelson then that he is not disputing that the neighbors in the area got individual letters inviting them to the information meeting. Nelson agreed, but they didn't have any information ahead of that meeting in order to go to the meeting and react intelligently. The only people that got the letter were 50-60 neighbors or more. When the homeowners association (Southwood) met, not a single member of the association board had gotten a letter or were aware of the project.

**2. Steve Groshans**, 2431 S. Canterbury Lane, right next to the four-plex, since June 1989, testified in opposition to changing the zone. In the 21 years he has lived there, the traffic on S. Canterbury Lane has increased just from the office buildings that are there. He is against any additional entrances or exits on S. Canterbury Lane. It comes down a hill and curves and is difficult in the winter. He requested that the Planning Commission put this proposal on hold. He is sure that the Southwood Homeowners Association can work something out with the people that own this building. They let this building deteriorate to the point that it is too expensive to rehabilitate. They have not even talked about the construction trucks that are going to need to get in and out of the site to tear that building down. They will go out on S. Canterbury Lane.

There will be traffic into this site until 2:00 a.m. He is not against them tearing down the building and putting in a new office building, but is opposed to the zoning change. He was not notified. He understands that this project has been in the works for a year.

**3. Pam Manske**, 6435 Lone Tree Drive, about one-half mile further south of the proposed development and a bit west of 27<sup>th</sup> Street, testified. She lives in the townhomes which buffer the east edge of The Ridge. She purchased her home in February. In order to leave her neighborhood, there are only two ways out and she goes right onto 27<sup>th</sup> Street. There are a lot of accidents and traffic at the 27<sup>th</sup> & Old Cheney Road intersection. This feels like spot zoning. She submitted some letters and signatures from neighbors in her area. However, she stated that the Lone Tree neighbors have decided not to oppose the project because they have seen the things that the city has done to allow CVS at 16<sup>th</sup> & South, and in the Dundee neighborhood in Omaha. They are of the opinion that it is going to happen because the Comprehensive Plan calls for commercial zoning here. Since 1977, we have seen this site be an office building and it is hard to believe that we need to have retail zoning at every corner every mile. She believes CVS could go to Bishop Heights, Williamsburg, the B-5 at SouthPointe, or 27<sup>th</sup> & Yankee Hill. There is also zoning to the west where Culvers is located at 14<sup>th</sup> and Old Cheney Road. It seems like the Comprehensive Plan has allowed for a lot of zoning for this type of use, but we have a retailer who wants to locate here, and a Planning Director that will approve it. The Lone Tree neighbors are not opposed but they want assurance that the P zoned lot to the east will not also become retail. “It just feels like strip zoning and we’re feeling very boxed in.”

**4. Jon Ludwig**, 2402 Jameson South, which is up the hill from Canterbury, testified in opposition to the rezoning of this area. There are eight pharmacies within a one-mile radius of that location. Do we need another? He is not against the retailer – he just does not believe it is needed. We need to watch out for our local businesses, such as Stockwell Pharmacy, as well as the people who live here. There is one way to oppose a project – not doing business there. He would rather see the office buildings rather than retail.

#### Staff questions

Eichorn explained the issue about the homeowners association not being notified. The Planning Department does notify the property owners within 200' of the property boundaries. The Department also looks at areas surrounding or near the proposed development, and that is how Seven Oaks would have gotten notice. The individual property owners are notified based on the County Assessor's records. We do not notify renters. With regard to homeowners associations, the Department uses a list of homeowners associations that have asked to be notified. The last contact that we had for Southwood was in 2001 and it appears that individual was leaving the neighborhood and asked to be removed, but did not give us an alternative person to contact. When that happens, they fall off the list. The Department is, however, currently looking at ways to be proactive in the future about keeping a more comprehensive list of homeowners associations. The homeowners associations will need to provide us their boundaries and a contact name.

Eichorn indicated that the staff agrees with the amendments to the conditions of approval on the use permit proposed by the applicant. The landscaping requirement under Condition #2.17.A is the same requirement that the staff had requested along Canterbury Lane to buffer the residences from the retail on the corner. Condition #2.17.E pertaining to the parking lot lighting cutoff fixtures, is already a requirement of the parking lot design standards. We do have design standards for landscaping including parking lot screening, as well as screening between commercial and

residential areas. We have lighting design standards to keep light trespass away from residential areas. We have pedestrian design standards as well.

Esseks inquired whether there is anything the Planning Department would like to do if this were delayed two weeks – anything that should be more carefully looked at or new issues examined. Eichorn did not believe there would be any advantage to the Planning Department with a delay. Nothing has changed since the staff report was written, so from the Planning Department's perspective, she does not believe there would be any changes.

Gaylor Baird asked whether the revised traffic study addressed the concern in the staff report about stacking of cars from 27<sup>th</sup> Street blocking access to the proposed site. Eichorn suggested that Public Works would have to address that question.

Sunderman believes that the parking lot and lighting standards have been updated relatively recently. Eichorn stated that the lighting standards were adopted two or three years ago, and the landscape design standards about 4 ½ years ago. The sign ordinance, which is another design guideline, was more recently updated.

If the amendments to the conditions are approved, Sunderman asked what someone would have to do to be allowed a gas station. Eichorn advised that the new Condition #2.19 provides that to change anything listed as a condition negotiated with the neighbors would need to come to the Planning Commission. It could not be revised administratively.

Lust noted that the neighbors have expressed concerns about strobing signs. What would the sign ordinance allow? Eichorn stated that they would be allowed one free standing sign per building and a center sign. The free standing sign can be up to 15' tall and 50 sq. ft. if in the front yard setback, and up to 100 sq. ft. if outside the front yard setback. They would be allowed one center sign oriented toward Old Cheney Road and one toward 27<sup>th</sup> Street, and those could potentially be 150 sq. ft. in area and up to 35' tall. The sign requirements are the same for O-3 and B-2 zoning.

#### Response by the Applicant

Hunzeker corrected the record – the neighborhood meeting was held September 20<sup>th</sup> (rather than September 27<sup>th</sup>), and they met with Don Nelson on the site on September 24<sup>th</sup>, and did not hear from him further. They met with the Lambrechts on September 29<sup>th</sup>, and in a matter of hours they had reached an agreement. Hunzeker believes the applicant has made an effort here. Unfortunately, these plans don't materialize out of thin area and we did not want to hold the neighborhood meeting without having a plan to show. We did that as soon as we possibly could. We are on a time line in accordance with our lease which requires us to move as quickly as possible. CVS, which is in process of trying to invest upwards of 30 million dollars in Lincoln, has indicated that they would like to have this store open by the beginning of the 4<sup>th</sup> quarter next year. Whether or not that can happen, there are a lot of variables, but we were trying very hard to meet our obligations under the lease and maintain as good contact as we could with neighbors.

Hunzeker also suggested that the grading on this site, while significant, is not fairly characterized as "massive". The site grading required to build two-level buildings with walkouts is not massive. They are ready-made walkouts. There will be significant moving of dirt to level those pads, but it is not what he would consider massive.

Hunzeker also pointed out that the median cut on Old Cheney Road has been there and is there and has nothing to do with this site. In the event it became necessary, Public Works has the right to change median openings. They are probably going to change the median on 27<sup>th</sup> Street that is there for the Fire Department. There is a median opening to the north which is available for this site.

Hunzeker disputed the suggestion that we should not do anything here because only about one-third of the users are known. That is always the case. It is very rare when all of the intended users are known at this stage of the game.

Lust inquired as to the occupancy of the current office building. Hunzeker believes it is 35%.

Partington believes that the site plan layout and relative location of the pharmacy and office buildings makes sense. The proposed amendments would address most of the concerns he would have as a resident. But it appears that the people living in the neighborhood don't feel like they have been informed. Would you be concerned about a two-week delay to meet with these people? Hunzeker stated that he would be willing, if he had the flexibility to do that, but they don't. It's a minimum of 2 ½ weeks between now and the time this would come up before the City Council. It's been 2 ½ weeks since they had the first meeting with the neighbors and they have had no response. On September 20<sup>th</sup>, we offered that if they wished to meet to please let us know. Hunzeker pointed out that the developer has made a concerted effort and responded to the concerns of the closest owner of property to this site. They made an effort to go directly to Mr. Nelson as well, but never heard back from him. We are doing what the closest property owner has requested. He does not believe they have been unfair about notification. They used a list supplied by the Planning Department and they specifically asked for a broader list than required so that they would not be accused of trying to keep someone in the dark. They have not tried to avoid interaction with the neighbors.

**CHANGE OF ZONE NO. 10019**

**ACTION BY PLANNING COMMISSION:**

October 6, 2010

Esseks moved approval, seconded by Lust.

Esseks is sympathetic to the positions of the neighbors, but he does not see what would be achieved by further delay. It looks as though there has been a lot of interaction between the applicants and some neighbors, and the applicants have tried to meet with more neighbors. Our community needs a reputation to be able to handle well-developed applications expeditiously. He thinks it is a good site. The Comprehensive Plan provides for commercial use here. We are told that a lot of shopping occurs when people come home from work. Design steps have been taken to buffer the neighbors from light and noise pollution. There are limits on alcohol sales and there is prohibition on gasoline stations. The southwest area of the site is already zoned B-2. It is not the role of the Planning Commission to determine which commercial uses should go into each area, and Esseks does not believe this set of uses looks threatening to the community. The City's sidewalk standards will be applied. It looks as though the signs are not facing the residential area but rather the major arterials.

Gaylor Baird stated that she would rather delay the proposal. This site plan is not sufficiently flushed out. It is a sensitive site that requires more time and attention. The zoning ordinance in which the Commissioners have been tutored talks about B-2 as a zoning district that requires the

use permit for the purpose of providing a really delineated site plan that assures integration between residential and commercial areas that are adjacent. The use permit is also supposed to reduce adverse impacts and to allow for a clear picture of what the enhanced designation is in the B-2. We have had people testify that they support changing the use but not necessarily the zone. If we are going to make this big shift from office to business zoning, then we need to give this closer scrutiny. If this is to be a neighborhood center, she does not see the case that it is pedestrian friendly. Proximity is not pedestrian friendliness. Proximity to residents does not equate to being walkable, so she would like to see further details on how this is made pedestrian friendly. She does not think there is great integration between the residential and commercial. It is completely auto-oriented as it is now. It is not designed for walkability. Walkability needs to be clearly delineated on the site plan.

Gaylor Baird believes there are additional ways that this proposal comes into conflict with the Comprehensive Plan with some traffic issues that are still unclear. The stacking on 27<sup>th</sup> Street is a concern which has not been addressed. The compromise that has been achieved with the setbacks creates a situation that if the city exercises its right to expand 27<sup>th</sup> Street, we will have even more limited green space between the parking lot and sidewalk.

There are a number of people who want to delay this. Given the state of the site plan and the neighborhood objections, Gaylor Baird thinks it would be valuable to take two weeks. This site deserves more scrutiny. When you look at what exists today, you have an office building that was designed by a local architect that is representative of its period. You have to look at what the proposal implies for the character of our community. It now has a lush setting with lots of green space. If demolished, we are looking at a change aesthetically to the landscape of Lincoln. It will be largely pavement that could exist in any city in the country – it is not unique and does not contribute to a sense of place. Because we are looking at such a drastic change on this corner and such a change to the visual landscape, we are losing something. We need to give this more time.

Lust stated that she would respectfully disagree with a delay. While once again, she is very sympathetic with the neighbors, she did not hear anything from the neighbors that has not been addressed by the developer and the staff. Their concerns over noise pollution, light pollution, and traffic issues have already been addressed by the developer. If the homeowners association has issues that they still want to address with the developer, they have two and a half weeks to do that before the City Council hearing. Asking for more details on the site plan and the uses at this point is really not something that this body can demand because that's "putting the cart before the horse." We cannot ask the developer to complete the architectural design of the entire facility before they even have any indication that the city will change the zone. Instead, their use permit requires certain conditions before they can get a building permit. There is going to be more review of this development as it occurs, and the city has been very progressive in their development of pedestrian standards, signage standards, and lighting standards – all of those things have already been considered and are in the ordinance. This is step one. They still have to come back for a building permit that complies with all of the conditions that they have agreed upon and that already incorporate the wonderful things that the city demands. She sees no use in delaying approval of this project. She does not believe that it deserves further scrutiny from the Planning Commission.

Taylor indicated that ideally, he would like to see a delay, and ideally, he would like to see the green space continue. He does not believe this zone change means any of the uses will be open until 2:00 a.m. It is just package liquor purchased on the site and taken home. He thinks a lounge or bar would have to come back before the Commission. At this point, he does not see what benefit

a delay will serve. This will be heard by the City Council in the future giving the citizenry more time to organize.

Cornelius observed that the Planning Commission has been informed recently in some of their workshops that one of the purposes of the B-2 is to require a use permit, and a use permit is much more oriented toward being a site plan permit. We were shown a site plan today. He appreciates the lengths to which the applicant has gone to try to meet the neighbors' concerns. However, he is concerned about the integration between the development and the residential area directly to the north and to the west. He agrees with Commissioner Gaylor Baird that "proximity is not walkability." This does not look like a pedestrian friendly development, but rather a lot of parking surrounding some retail and office buildings. Perhaps given two weeks of time, they might be able to work something out that is more carefully integrated in terms of pedestrian accessibility with the neighboring residential development.

Sunderman stated that he will vote in favor. It's a good plan. They have addressed the issues quite well. It is similar to other developments on corners such as this. As far as walkability, he believes it is at least adequate. It will be better and friendlier, especially with the detention pond. He thinks traffic will work fine. As far as losing the building on the corner, he agrees that it is a nice building, but it is empty, and an empty building doesn't do anybody any good.

Motion for approval carried 6-2: Taylor, Esseks, Partington, Lust, Francis and Sunderman voting 'yes'; Cornelius and Gaylor Baird voting 'no'; Larson absent. This is a recommendation to the City Council.

#### **USE PERMIT NO. 15D**

#### **ACTION BY PLANNING COMMISSION:**

October 6, 2010

Lust moved to approve the staff recommendation of conditional approval, with the amendments submitted by the applicant today, further amended to include Condition #2.18 as a reference in Condition #2.19, seconded by Francis.

Cornelius stated that, having registered his objections to the change of zone, and based on those objections and the thought that a deferral would perhaps be valuable, he will vote in favor of the use permit because, in general, he agrees that in many ways this is a decent addition to this area and it meets the standards required.

Gaylor Baird stated that she will vote against it because of the setback issue. It looks bad to have sidewalks pushed up against streets throughout our city.

Motion for conditional approval, with amendments, carried 7-1: Cornelius, Taylor, Esseks, Partington, Lust, Francis and Sunderman voting 'yes'; Gaylor Baird voting 'no'; Larson absent. This is a recommendation to the City Council.

**STREET & ALLEY VACATION NO. 10015**

**ACTION BY PLANNING COMMISSION:**

October 6, 2010

Esseks moved to find the proposed vacation to be in conformance with the Comprehensive Plan, seconded by Francis and carried 7-1: Cornelius, Taylor, Esseks, Partington, Lust, Francis and Sunderman voting 'yes'; Gaylor Baird voting 'no'; Larson absent. This is a recommendation to the City Council.



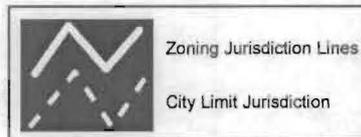
**Use Permit 15D  
S 27th St & Old Cheney Rd**

2007 aerial

**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 12 T09N R06E



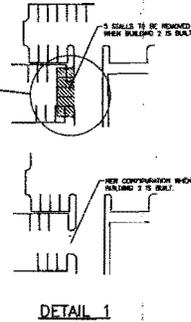
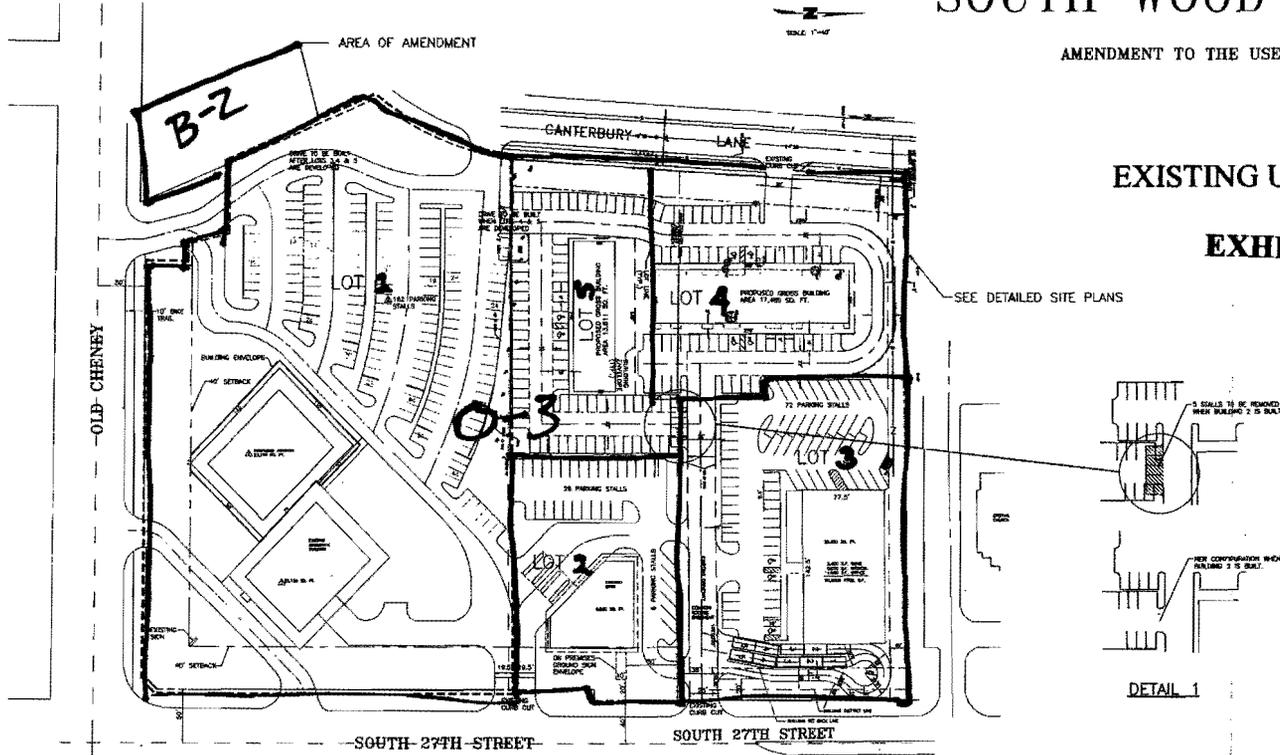
m:\plan\arcview\Agendadrawings.mxd (UP15D)

# SOUTH WOOD CENTER

AMENDMENT TO THE USE PERMIT 15C

## EXISTING USE PERMIT

### EXHIBIT A



CONSULTING ENGINEERS  
1311 Lincoln Hall  
P.O. Box 8480  
Lincoln, NE 68501  
402-474-8311

ADMINISTRATIVE  
AMENDMENT TO  
SOUTH WOOD  
CENTER USE  
PERMIT 15C

SITE  
PLAN

LINCOLN  
NEBRASKA  
1996

Drawn by: CAG  
Designed by: RAG  
Checked by: RAG  
Approved by: RAG  
Project No.: 96-0027  
Drawing No.: 6284 (12x18)  
Scale: 1/8" = 1'-0"  
Lincoln, NE, 1996  
All 11/27/96 PROPOSED  
APPROVED TO LOT 1  
BY PROPOSED PARKING

SHEET  
1 OF 4

#### LAND USE

LOT	PHYSICAL SIZE	SQUARE FT.
1	81	23,120
2	22	6,500
3	10 MEDICAL 13 BANK 47 OFFICE	9,000 MEDICAL 2,400 BANK 13,800 OFFICE
4	63	17,488
5	75	22,011
TOTAL	143 (58 Compacted)	103,340

**SITE AREA**  
TOTAL SITE AREA = 6.57 ACRES

#### ENGINEER & PREPARER

CLYTON HOSCHKEY  
1111 LINCOLN HALL  
LINCOLN NE 68506  
PHONE: 474-4311

**DEVELOPER**  
LINCOLN MUTUAL LIFE INSURANCE  
3601 SOUTH 27TH STREET  
LINCOLN NE 68512

#### ARCHITECT

STEVE COOK  
3501 WOODS AVE  
LINCOLN NE 68510  
PHONE: 474-2621

#### OWNER

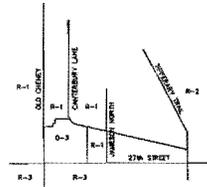
LOTS 1, 4 & 5 LINCOLN MUTUAL LIFE INSURANCE COMPANY  
LOT 2 LINCOLN INVESTMENTS LTD.  
LOT 3 M.P. ENTERPRISES  
3633 SOUTH 27TH STREET  
LINCOLN NE 68512

#### LEGAL DESCRIPTION

LOTS 1, 2, 3, 4 & 5 SOUTH WOOD CENTER, LINCOLN NE

#### NOTES

1. UTILITY EXHIBITS WILL BE SHOWN ON FINAL PLAN.
2. HEIGHTS OF PROPOSED BUILDINGS ARE NOT TO EXCEED 40 FEET.
3. SEE GRADING AND DRAINAGE PLAN FOR STORM SEWER LAYOUT.
4. SIGNS SHALL BE AS PER CITY ORDINANCE 27-16.04.
5. ALL HANDICAP PARKING WILL COMPLY WITH THE NEBRASKA ACCESSIBILITY GUIDELINES & DESIGN STANDARDS.
6. SEE DETAILED SITE PLAN FOR LOTS 2, 4 & 5.
7. GROUND SIGNS SHALL BE LOCATED OUTSIDE OF ALL APPLICABLE RIGHT-OF-WAY TRAVELWAYS AND IN ACCORDANCE WITH THE SIGNING ORDINANCE.



**VICINITY MAP**  
30 SCALE

SEE PLANS FOR DIRECTOR APPROVED TITLE  
APPROVED BY: [Signature]  
DATE: 2/14/2006

027





WALTER E. ZINK II  
RANDALL L. GOYETTE\*  
STEPHEN S. GEALY  
GAIL S. PERRY  
DALLAS D. JONES  
JILL GRADWOHL SCHROEDER  
DAVID A. DUDLEY  
BRENDA S. SPILKER  
STEPHANIE F. STACY  
W. SCOTT DAVIS  
MARK A. HUNZEKER

WILLIAM G. BLAKE  
PETER W. KATT  
CHRISTOPHER M. FERDICO  
DARLA S. IDEUS  
JARROD S. BOGINOTT  
TIMOTHY E. CLARKE  
ANDREW M. LOUDON  
CHRISTINA L. BALL\*\*  
JENNY L. PANKO  
CAROLINE M. WESTERHOLD\*  
JAMES D. HAMILTON\*

AMANDA A. DUTTON  
CYNTHIA R. LAMM  
DEREK C. ZIMMERMAN  
JARROD P. CROUSE  
ANDREA D. SNOWDEN  
JULIE M. KARAVAS  
ANDREA A. ORDONEZ  
COLIN A. MUES\*  
TORREY L. JANUS GERDES

OF COUNSEL  
DONALD R. WITT  
ROBERT T. GRIMIT  
J. ARTHUR CURTISS

\*ALSO ADMITTED IN IOWA  
\*\*ALSO ADMITTED IN KANSAS

September 8, 2010

Mr. Marvin Krout  
City of Lincoln Planning Dept.  
555 South 10<sup>th</sup> Street, Room 213  
Lincoln, NE 68508

RE: Property at 27<sup>th</sup> and Old Cheney Road (Southwood Center Use Permit 15D)

Dear Mr. Krout:

Please find attached an application for rezoning and use permit for property located at 27<sup>th</sup> and Old Cheney road. The rezoning request is from 0-3 to B-2. The use permit request is for 25,620 sq. ft. of office use, 13,300 sq. ft. of pharmacy use, and 19,720sq. ft. of retail use, which includes up to 7,480 sq. ft. of restaurant use.

The project includes removal of an existing office building. The first phase of new construction will be a new retail pharmacy building, including the sale of alcoholic beverages for consumption off the premises, together with an additional 8,500 sq. ft. of retail/restaurant space.

Total building area is proposed to be reduced from 103,340 sq. ft. under the existing approved use permit to 101,929 sq. ft. There is some additional impervious surface area as proposed on the new site plan which will require on-site detention for this additional storm water runoff created. Peak hour trip generation will increase by 134 inbound and 99 outbound trips during the p.m. peak hour, the vast majority of which are expected to enter and exit via the drives on both 27<sup>th</sup> Street and Old Cheney Road.

This site was identified as a neighborhood retain center at lease as far back as the 1977 Comprehensive Plan, a vision which was thwarted by the construction of the office building proposed to be removed as part of this project. We believe the site is still ideally suited for neighborhood retail and restaurant uses, lying approximately a mile in all directions from other neighborhood commercial areas.

Sincerely,

Mark A. Hunzeker  
For the Firm  
mhunzeker@baylorevnen.com

MAH/smj  
422423

029



WALTER E. ZINK II  
RANDALL L. GOVETTIE\*  
STEPHEN S. GEALY  
GAIL S. PERRY  
DALLAS D. JONES  
JILL GRADWOHL SCHROEDER  
DAVID A. DUDLEY  
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JULIE M. KARAVAS  
ANDREA A. ORDONEZ  
COLIN A. MUES\*  
TORREY L. JANUS GERDES

OF COUNSEL  
DONALD R. WITT  
ROBERT T. GRIMIT  
J. ARTHUR CURTISS

\*ALSO ADMITTED IN IOWA  
\*\*ALSO ADMITTED IN KANSAS

September 14, 2010

Ms. Christy Eichorn  
Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Assurity Life Insurance Co. Rezoning/Use Permit Application  
27<sup>th</sup> and Old Cheney

Dear Christy:

As we discussed this morning on the phone, on behalf of the owner/developer, we request a waiver of the front yard requirement along both 27<sup>th</sup> Street and Old Cheney Road from 20 feet to 10 feet. If you need any further information with respect to this application, please contact me.

Thank you for your cooperation in this matter.

Sincerely,

Mark A. Hunzeker  
For the Firm  
mhunzeker@baylorevnen.com

MAH/smj

424235

030

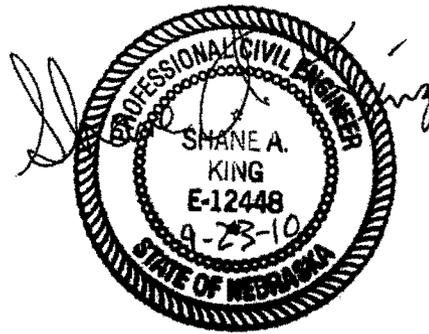
# MEMO

To: Mr. Marvin Krout, Planning Director  
Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street, Room 213  
Lincoln, NE 68508

From: Shane A. King, PE, PTOE  
Olsson Associates  
1111 Lincoln Mall  
Lincoln, NE 68508

Re: Southwood Center Use Permit 15D

Date: September 23, 2010



## INTRODUCTION

This memorandum documents traffic analysis and observations relating to a request for zoning changes related to a proposed development in the northwest quadrant of 27<sup>th</sup> Street & Old Cheney Road. The objective of the traffic review was to determine the impacts of the potential zoning change.

## EXISTING CONDITIONS

The site currently contains a multi level office building consisting of approximately 25,750 square feet. The building is believed to be approximately 25% occupied. The site is approved to accommodate an additional office building that would bring the site total to 46,240 SF. The additional building does not currently exist and there are no plans to construct that building with this proposed development.

Recent AM and PM peak hour traffic volumes were documented at 27<sup>th</sup> Street & Old Cheney Road. Other area PM volumes were also documented. Observations indicate that 27<sup>th</sup> Street & Old Cheney Road operates at approximately LOS D during the peak hour.

Also, during the PM peak hour, approximately 90% of site entering and exiting traffic utilize drives that provide access directly to the arterials. The remaining 10% of the traffic volume utilizes Canterbury Lane.

## **TRIP GENERATION / DISTRIBUTION**

A trip generation table was prepared based on rates/equations from the ITE Trip Generation Manual. The table includes a few specific factors:

- Mixed-use reductions are based on ITE data.
- Pass-by reductions are based on ITE data.
- The charts illustrate NET changes; new land-use trips are added, the existing and potential trips from a built-out and fully occupied site are subtracted. (The trips shown are net change from potential, not net change from existing)

The pass-by reduction was applied to the site trips to account for trips made to the development on the way to another destination. These trips are in the existing arterial volumes and do not represent new trips to the area. The primary trips column shows new trips coming to the site. Based on a comparison of the proposed site and what the site is currently approved for, net primary trip differences are:

- AM; enter – 5 trip reduction, exit – 39 trip increase
- PM; enter – 68 trip increase, exit – 39 trip increase

Based on current daily traffic volumes alone, the distribution of trips to and from the site will approximately equal: 25% north-south-east-west. Following the observed PM distribution, 10% of the trips listed above would utilize Canterbury Lane and the remaining 90% would enter/exit via the arterial access drives.

## **OPERATIONS / OBSERVATIONS**

Given that the largest trip increase is expected to be 68 vehicles per hour (entering in the PM peak hour), it is assumed that after splitting these trips N-S-E-W, there will not be a significant increase in volume to any one movement at 27<sup>th</sup> Street & Old Cheney Road. Therefore, a noticeable decrease in operations stemming from the additional trips would not be expected. It is worth mentioning again that the new additional trips represent trips above what the site is “approved for”, not trips above “existing volumes”.

The site plan has not been finalized; however, modifications to the access south of the West Gate Bank are anticipated. The modifications will enable traffic to enter the site freely so as not to queue onto 27<sup>th</sup> Street. The impact of this access modification will be a shorter southbound right-turn lane for the 27<sup>th</sup> Street & Old Cheney Road intersection. A preliminary concept shows that 250' of storage will be maintained.

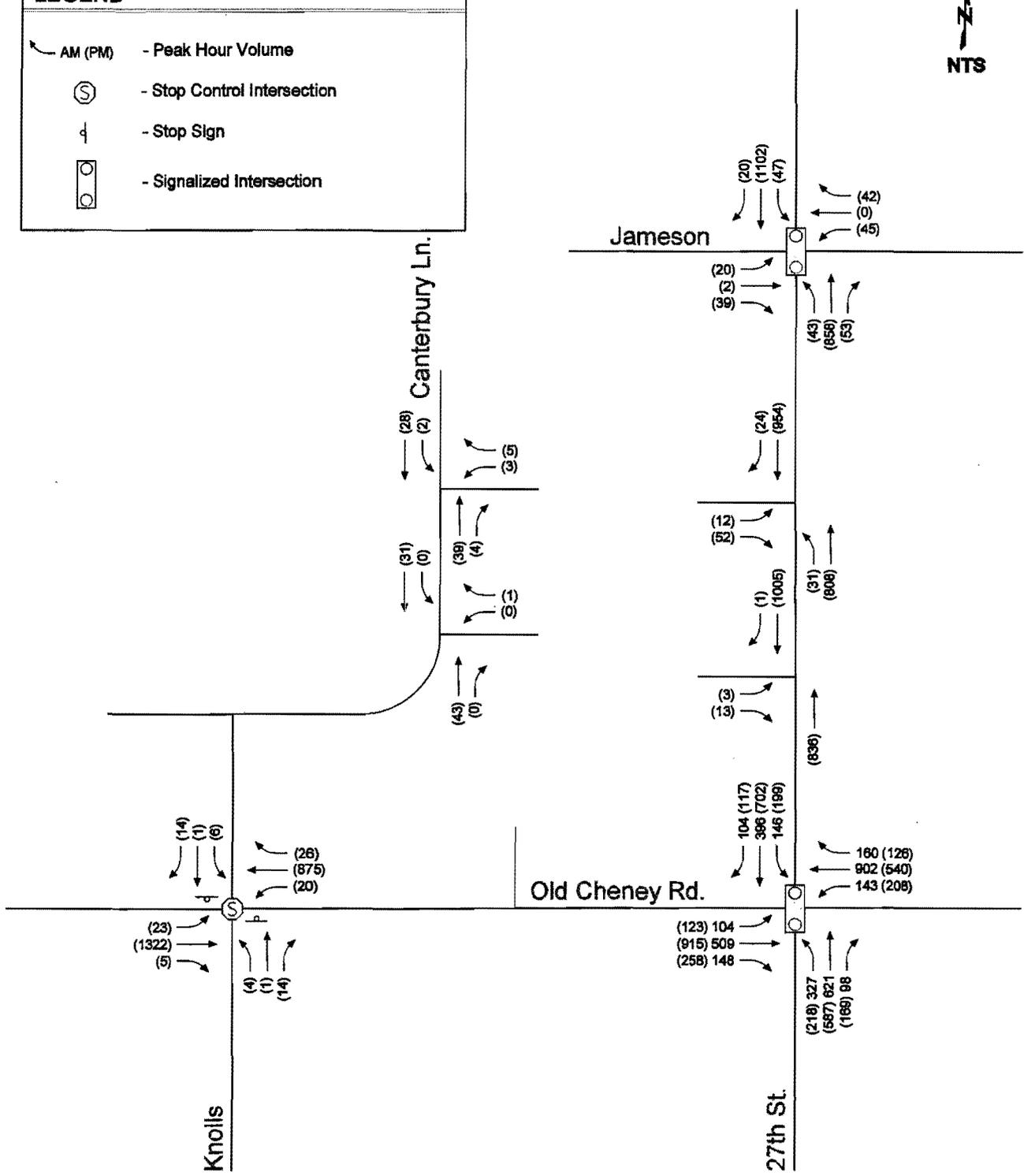
These observations are based on preliminary analysis; intersection capacity analysis was not performed for any of the study area intersections.

Cc: File

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**LEGEND**

- Peak Hour Volume
- Stop Control Intersection
- Stop Sign
- Signalized Intersection



033

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9/23/2010  
10:53:03 AM

**TABLE - 1**  
**ITE TRIP GENERATION**  
**Southwood Center**  
**27th Street & Old Cheney Road**  
**Lincoln, NE**

			Daily Trip Generation								
ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	Daily Trips	Mixed-Use Reduction	Net Daily Trips	Trip Distribution		Total Daily Trips		
							Enter	Exit	Enter	Exit	
<b>New Land Uses</b>											
710/1203	General Office Building	11,220	SF	$T = e^{(0.77 \cdot \ln(X) + 3.65)}$	248	3%	240	50%	50%	120	120
881/1715	Pharmacy/Drugstore with Drive-Through Window	13,300	SF	88.16	1,173	3%	1,137	50%	50%	569	569
932/1795	High Turnover (Sit-Down) Restaurant	7,480	SF	127.15	951	3%	923	50%	50%	461	461
814/1387	Specialty Retail	12,240	SF	44.32	542	3%	526	50%	50%	263	263
<b>SubTotal</b>					2,914		2,826			1,413	1,413
<b>Existing / Approved Land Uses</b>											
710/1203	General Office Building	46,240	SF	$T = e^{(0.77 \cdot \ln(X) + 3.65)}$	737	3%	715	50%	50%	357	357
<b>SubTotal</b>					737		715			357	357
<b>Net Total</b>					2,177		2,112			1,056	1,056

			AM Peak Hour Trips													
ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	AM Peak Trips	Mixed-Use Reduction	Net AM Peak Trips	Trip Distribution		Total AM Trips		Pass-by Reduction	Pass-by Trips		Primary Trips		
							Enter	Exit	Enter	Exit		Enter	Exit	Enter	Exit	
710/1204	General Office Building	11,220	SF	$T = e^{(0.80 \cdot \ln(X) + 1.55)}$	33	4%	31	88%	12%	28	4	0%	0	0	28	4
881/1716	Pharmacy/Drugstore with Drive-Through Window	13,300	SF	2.66	35	4%	34	57%	43%	19	15	16%	3	2	16	12
932/1796	High Turnover (Sit-Down) Restaurant	7,480	SF	11.52	86	4%	83	52%	48%	43	40	14%	6	6	37	34
814/NA	Specialty Retail	12,240	SF	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>SubTotal</b>					154		148			90	58		9	8	81	50
<b>Existing / Approved Land Uses</b>																
710/1204	General Office Building	46,240	SF	$T = e^{(0.80 \cdot \ln(X) + 1.55)}$	101	4%	97	88%	12%	85	12	0%	0	0	85	12
<b>SubTotal</b>					101		97			85	12		0	0	85	12
<b>Net Total</b>					53		51			4	46		9	8	66	39

			PM Peak Hour Trips													
ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	PM Peak Trips	Mixed-Use Reduction	Net PM Peak Trips	Trip Distribution		Total PM Trips		Pass-by Reduction	Pass-by Trips		Primary Trips		
							Enter	Exit	Enter	Exit		Enter	Exit	Enter	Exit	
710/1205	General Office Building	11,220	SF	$T = 1.12(X) + 78.81$	91	4%	88	17%	83%	15	73	0%	0	0	15	73
881/1717	Pharmacy/Drugstore with Drive-Through Window	13,300	SF	10.35	138	4%	132	50%	50%	66	66	49%	32	32	34	34
932/1796	High Turnover (Sit-Down) Restaurant	7,480	SF	11.15	83	4%	80	59%	41%	47	33	43%	20	14	27	19
814/1388	Specialty Retail	12,240	SF	$T = 2.40(X) + 21.48$	51	4%	49	44%	56%	21	27	34%	7	9	14	18
<b>SubTotal</b>					363		349			150	199		60	56	90	143
<b>Existing / Approved Land Uses</b>																
710/1205	General Office Building	46,240	SF	$T = 1.12(X) + 78.81$	131	4%	125	17%	83%	21	104	0%	0	0	21	104
<b>SubTotal</b>					131		125			21	104		0	0	21	104
<b>Net Total</b>					233		223			128	95		60	56	68	39

\* Trip rate is not applicable per ITE Trip Generation Manual (8th Ed.) for given time period.

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## MEMORANDUM

---

**TO:** Planning Commission  
**FROM:** Christy Eichorn, Planner  
**RE:** Use Permit #15D & CZ#10019  
S. 27<sup>th</sup> Street and Old Cheney  
**DATE:** October 6<sup>th</sup> 2010

Attached is an updated Traffic analysis from Olsson and Associates for the proposed development at S.27th Street and Old Cheney Road. Public Works and Utilities has reviewed the revised memo and found it acceptable. The attached traffic analysis shows an increase in 26 PM peak hour trips over the PM Peak hour trips in the analysis attached to the staff report. This revised report does not change the conditions or recommendations from Public Works or Planning.

Thank you,

Christy Eichorn, Planner  
441-7603  
ceichorn@lincoln.ne.gov



October 4, 2010

Mr. Marvin Krout, Planning Director  
Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street, Room 213  
Lincoln, NE 68508

RE: Multiple Memorandums for Southwood Center  
27<sup>th</sup> Street & Old Cheney Road, Lincoln, NE

Mr. Krout:

This letter accompanies a Memorandum dated October 4, 2010 pertaining to the proposed use permit change for Southwood Center (27<sup>th</sup> Street & Old Cheney Road). Unfortunately, you may have previously received copies of Memorandums dated September 22 and/or September 23 on the same topic. Due to a communication miscue, both of the September Memorandums contain material that may be difficult to interpret or out-of-date.

The attached October 4 Memorandum addresses comments received from members of the project team and Engineering Services. This Memorandum is intended to replace the September 22 and September 23 Memorandums. Please make a note in your file of the designating the October 4 Memorandum as a replacement of the previous Memorandums.

I apologize for the inconvenience; please contact me if I can provide further clarification.

Sincerely,

  
Shane A. King, PE, PTOE

Cc: Kelly Sieckmeyer, City of Lincoln  
Erin Sokolik, City of Lincoln  
Nate Buss, Olsson Associates  
File



# MEMO

To: Mr. Marvin Krout, Planning Director  
Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street, Room 213  
Lincoln, NE 68508

From: Shane A. King, PE, PTOE  
Olsson Associates  
1111 Lincoln Mall  
Lincoln, NE 68508

Re: Southwood Center Use Permit 15D

Date: October 4, 2010

## INTRODUCTION

This memorandum documents traffic analysis and observations relating to a request for zoning changes related to a proposed development in the northwest quadrant of 27<sup>th</sup> Street & Old Cheney Road. The objective of the traffic review was to determine the net traffic changes of the potential zoning change. The reported net change seeks to compare the following two conditions:

- Existing + Approved land-uses
- Proposed land-uses

(A comparison of existing conditions to proposed conditions is not included in this memo.)

## EXISTING CONDITIONS

The site currently contains a multi level office building consisting of approximately 25,750 square feet. The building is believed to be approximately 25% occupied. The site is approved to accommodate an additional office building that would bring the site total to 46,240 SF. The additional building does not currently exist and there are no plans to construct that building with this proposed development.

Recent AM and PM peak hour traffic volumes were documented at 27<sup>th</sup> Street & Old Cheney Road; PM peak hour only turning movement volumes were documented at site driveways. The data indicated that 10% of the 62 entering trips and 10% of the 89 exiting trips utilized Canterbury Lane. The remaining 90% of the PM entering/exiting traffic utilized direct connections to the arterials. The traffic volumes are illustrated in Figure 1.

### **TRIP GENERATION / DISTRIBUTION**

A trip generation table was prepared based on rates/equations from the ITE Trip Generation Manual. The table includes a few specific factors:

- Mixed-use reductions are based on average ITE data for the specified land-use.
- Pass-by reduction data is only available for the PM peak hour. Following a traffic analysis review meeting, engineering judgment was utilized in the application of rates to specific land-uses.
- The charts illustrate NET changes; new land-use trips are added, the existing + approved trips from a built-out and fully occupied site are subtracted. (The trips shown are net change from potential, not net change from existing).

The pass-by reduction was applied to the site trips to account for trips made to the development on the way to another destination. These trips are in the existing arterial volumes and do not represent new trips to the area. The primary trips column shows new trips coming to the site. Based on a comparison of the proposed site and what the site is currently approved for, net primary trip differences are:

- AM Enter: 5 trip decrease, Exit: 39 trip increase
- PM Enter: 82 trip increase, Exit: 51 trip increase

Based on current daily traffic volumes alone, the distribution of trips to and from the site will approximately equal: 25% north-south-east-west. Following the observed PM distribution, 10% of the trips listed above would utilize Canterbury Lane and the remaining 90% would enter/exit via the arterial access drives.

### **OPERATIONS / OBSERVATIONS**

If the 10% - 90% distribution holds true; approximately 8/5 more trips (net) would be expected enter/exit the site via Canterbury Lane. Even if the distribution shifts towards 20% - 80%, the enter/exit numbers would increase by 16/10 (net).

Given that the largest trip increase is expected to be 82 vehicles per hour (entering in the PM peak hour), it is assumed that after splitting these trips N-S-E-W, there will not be a significant increase in volume to any one movement at 27<sup>th</sup> Street & Old Cheney Road. Therefore, a noticeable decrease in operations stemming from the additional trips is not be expected. It is worth mentioning again that the new additional trips represent trips above what the site is "approved for", not trips above "existing volumes".

The site plan has not been finalized; however, modifications to the access south of the West Gate Bank are anticipated. The modifications will enable traffic to enter the site freely so as not to queue onto 27<sup>th</sup> Street. The impact of this access modification will be a shorter southbound right-turn lane for the 27<sup>th</sup> Street & Old Cheney Road intersection. A preliminary concept shows that 250' of storage will be maintained.

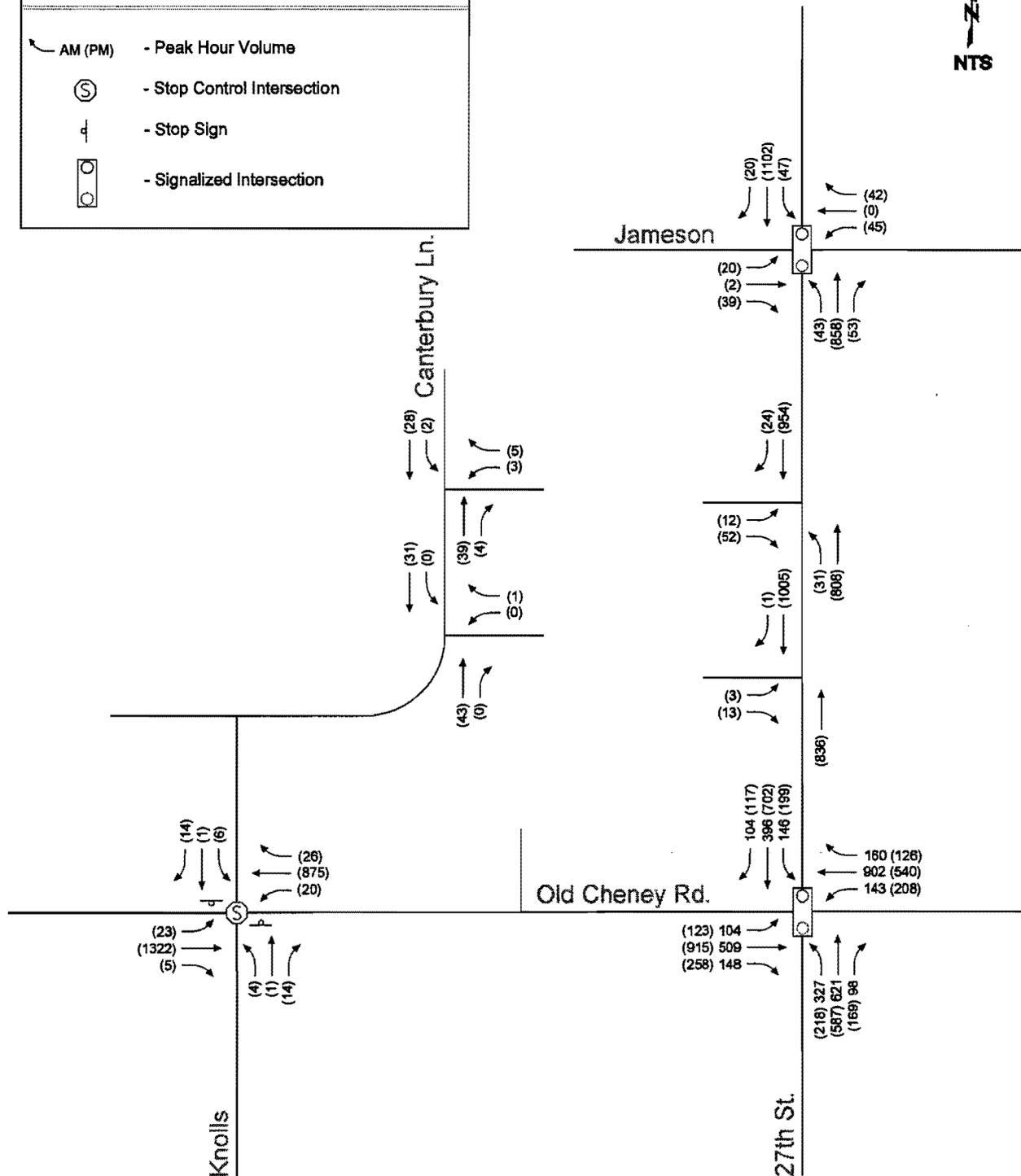
These observations are based on preliminary analysis; intersection capacity analysis was not performed for any of the study area intersections.

Cc: Kelly Sieckmeyer, City of Lincoln  
Erin Sokolik, City of Lincoln  
Nate Buss, Olsson Associates  
File

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**LEGEND**

-  AM (PM) - Peak Hour Volume
-  - Stop Control Intersection
-  - Stop Sign
-  - Signalized Intersection



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8/22/2010  
2:56:35 PM

040

**TABLE - 1**  
**ITE TRIP GENERATION**  
**Southwood Center**  
**27th Street & Old Cheney Road**  
**Lincoln, NE**

		Daily Trip Generation									
ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	Daily Trips	Mixed-Use Reduction	Net Daily Trips	Trip Distribution		Total Daily Trips		
							Enter	Exit	Enter	Exit	
<b>New Land Uses</b>											
710/1203	General Office Building	11,220	SF	$T = e^{(0.77 \cdot \ln(X) + 3.65)}$	248	3%	240	50%	50%	120	120
881/1715	Pharmacy/Drugstore with Drive-Through Window	13,300	SF	88.16	1,173	3%	1,137	50%	50%	569	569
932/1795	High Turnover (Sit-Down) Restaurant	7,480	SF	127.15	951	3%	923	50%	50%	461	461
814/1387	Specialty Retail	12,240	SF	44.32	542	3%	526	50%	50%	263	263
<b>SubTotal</b>					2,914		2,826			1,413	1,413
<b>Existing / Approved Land Uses</b>											
710/1203	General Office Building	46,240	SF	$T = e^{(0.77 \cdot \ln(X) + 3.65)}$	737	3%	715	50%	50%	357	357
<b>SubTotal</b>					737		715			357	357
<b>Net Total</b>					2,177		2,112			1,056	1,056

		AM Peak Hour Trips														
ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	AM Peak Trips	Mixed-Use Reduction	Net AM Peak Trips	Trip Distribution		Total AM Trips		Pass-by Reduction	Pass-by Trips		Primary Trips		
							Enter	Exit	Enter	Exit		Enter	Exit	Enter	Exit	
710/1204	General Office Building	11,220	SF	$T = e^{(0.80 \cdot \ln(X) + 1.55)}$	33	4%	31	88%	12%	28	4	0%	0	0	28	4
881/1716	Pharmacy/Drugstore with Drive-Through Window	13,300	SF	2.66	35	4%	34	57%	43%	19	15	24%	5	4	15	11
932/1796	High Turnover (Sit-Down) Restaurant	7,480	SF	11.52	86	4%	83	52%	48%	43	40	10%	4	4	39	36
814/NA	Specialty Retail	12,240	SF	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>SubTotal</b>					154		148			90	58		9	7	81	51
<b>Existing / Approved Land Uses</b>																
710/1204	General Office Building	46,240	SF	$T = e^{(0.80 \cdot \ln(X) + 1.55)}$	101	4%	97	88%	12%	85	12	0%	0	0	85	12
<b>SubTotal</b>					101		97			85	12		0	0	85	12
<b>Net Total</b>					53		51			4	46					35

		PM Peak Hour Trips														
ITE Code/Page	Land Use	Size	Trip Gen. Avg. Rate/Eq.	PM Peak Trips	Mixed-Use Reduction	Net PM Peak Trips	Trip Distribution		Total PM Trips		Pass-by Reduction	Pass-by Trips		Primary Trips		
							Enter	Exit	Enter	Exit		Enter	Exit	Enter	Exit	
710/1205	General Office Building	11,220	SF	$T = 1.12(X) + 78.81$	91	4%	88	17%	83%	15	73	0%	0	0	15	73
881/1717	Pharmacy/Drugstore with Drive-Through Window	13,300	SF	10.35	138	4%	132	50%	50%	66	66	49%	32	32	34	34
932/1796	High Turnover (Sit-Down) Restaurant	7,480	SF	11.15	83	4%	80	59%	41%	47	33	20%	9	7	38	26
814/1388	Specialty Retail	12,240	SF	$T = 2.40(X) + 21.48$	51	4%	49	44%	56%	21	27	20%	4	5	17	22
<b>SubTotal</b>					363		349			150	199		46	44	104	155
<b>Existing / Approved Land Uses</b>																
710/1205	General Office Building	46,240	SF	$T = 1.12(X) + 78.81$	131	4%	125	17%	83%	21	104	0%	0	0	21	104
<b>SubTotal</b>					131		125			21	104		0	0	21	104
<b>Net Total</b>					233		223			128	95		46	44	125	159

\* Trip rate is not applicable per ITE Trip Generation Manual (8th Ed.) for given time period.

Jean Preister

**From:** Christy J. Eichorn  
**Sent:** Wednesday, October 06, 2010 9:57 AM  
**To:** Jean Preister  
**Subject:** FW: Additional discussion with neighbors

Jean could you please add this to information to be distributed to PC. Mark will be sending a list of changes to the Conditions in the staff report soon.

-----Original Message-----

**From:** Mark A. Hunzeker [mailto:MHunzeker@baylorevnen.com]  
**Sent:** Wednesday, October 06, 2010 9:27 AM  
**To:** Christy J. Eichorn  
**Cc:** Steve Hill; Bill Schmeeckle; 'Tim Gergen'  
**Subject:** Additional discussion with neighbors

Christy:

I mentioned last week we had met with the owners of the property immediately west of the Assurity site. Below is an email exchange which describes the issues raised by the owners, our response, and their agreement that we have adequately addressed their concerns. I have not yet put into amendment form, but want to speak to you about that first.

Mark

-----Original Message-----

**From:** Dale Lambrecht [mailto:dalelambrecht@usa.net]  
**Sent:** Tuesday, October 05, 2010 11:16 PM  
**To:** Mark A. Hunzeker  
**Subject:** RE: test

Mark,

We believe that these solutions do adequately address our concerns with regard to this development, and strongly agree with the prohibition of gasoline sales as well. As we discussed, our main goal is to maintain as much "peace and quiet" for our tenants as possible. It appears that these measures will go a long way in doing so.

Thank you for your assistance and cooperation in this matter.

Sincerely,

Dale L. Lambrecht

----- Original Message -----

**Received:** Tue, 05 Oct 2010 01:57:02 PM CDT  
**From:** "Mark A. Hunzeker" <MHunzeker@baylorevnen.com>  
**To:** Dale Lambrecht <dalelambrecht@usa.net>  
**Subject:** RE: test

**From:** Mark A. Hunzeker  
**Sent:** Tuesday, October 05, 2010 10:18 AM  
**To:** 'dlambrecht@usa.net'  
**Cc:** Steve Hill; Bill Schmeeckle  
**Subject:** Assurity project 27th & Old Cheney

042

Dale:

Sorry for the delay in getting back to you about this. My client contacts at Assurity have been out of the office for a few days, so discussing this with them was delayed. Pursuant to our discussion last week, my client is willing to commit to you the following:

1. At such time as the west building and associated parking are constructed, place a combination of landscaping and fence, to be evenly distributed horizontally; however it may vary in height so as to screen at least sixty percent (60% of the surface area of a vertical plane extending along the entire length of the property line and from the ground elevation to a height of ten feet (10') above the adjacent ground elevation. If this language seems a little contrived, it is taken from the staff report on the project, and is commonly used for this type of thing in order to create a standard which the city is accustomed to enforcing. Also, please understand that my client tells me that they may want to do some of the landscaping immediately, rather than wait until the west building is built.
2. Prepare and implement a landscape plan for the area along the west property line on the Assurity side of the fence which exceeds minimum city standards.
3. In the area between the SW corner of the Assurity property and the parking lot, plant a grouping of shrubs which will deter pedestrians from traversing the site from south to north between the parking lot and Canterbury (i.e. barberry bushes)
4. In the area immediately abutting the west side of the parking lot, provide a 100% screen from ground level to 3 feet to prevent car headlights from shining in windows of the fourplex. This could be accomplished by a low fence, or evergreen bushes such as yews, or junipers.
5. Parking lot lighting to have cutoff fixtures, directed away from the west property line. (This item is required by city design standards.)
6. Agree that any licensed alcohol sales in the west building will be located in the east two-thirds of the building. (this would place any licensed premises approximately 160 feet east of your property line.)
7. No gasoline sales will be permitted on the property. (This is not an issue you raised directly; however, it was mentioned in a letter of opposition to the project, and my client is not interested in having gasoline sales on the property. We assume you will not object to this additional commitment.)

Please review this and let me know if we have addressed the concerns you expressed. If you have questions please give me a call at 458-2131. If this does adequately address your concerns, please indicate that in a reply to this email. Our plan would be to incorporate these points into an amendment to the staff report which would make these points part of the conditions of approval of the use permit, and enforceable by the city as requirements of the permit.

Thank you again for taking the time to meet with us.

Mark A. Hunzeker  
Baylor, Evnen, Curtiss, Grit & Witt, LLP Wells Fargo Center  
1248 O Street, Suite 600  
Lincoln, Nebraska 68508-1499  
mhunzeker@baylorevnen.com

-----Original Message-----

From: Dale Lambrecht [mailto:dalelambrecht@usa.net]  
Sent: Tuesday, October 05, 2010 1:56 PM

043

To: Mark A. Hunzeker  
Subject: test

Mark,

Here's my e-mail address.

Dale

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**MOTION TO AMEND  
USE PERMIT #15D**

I move to amend the Condition of Approval for Use Permit #15D as follows:

2.10 Revise the drive off of Old Cheney Road to be no more than two lanes and 25' wide, unless it can be shown that additional width is necessary. If the drive remains wider than 25' it shall be striped as a two lane drive.

2.11 Remove one access to Canterbury Lane.

2.13 Add a note that says alcohol sales is permitted in the B-2 zoning district (except in the western 1/3 of the building on Lot 7) as long as all conditions under 27.31.040 are met.

New Condition 2.17 At such time as the building and associated parking on Lot 7 are constructed:

- a. Place a combination of landscaping and fence, to be evenly distributed horizontally; however it may vary in height so as to screen at least sixty percent (60%) of the surface area of a vertical plane extending along the entire length of the property line and from the ground elevation to a height of ten feet (10') above the adjacent ground elevation.
- b. Prepare and implement a landscape plan for the area along the west property line on the Assurity side of the fence which exceeds minimum city standards.
- c. In the area between the SW corner of the Assurity property and the parking lot, plant a grouping of shrubs which will deter pedestrians from traversing the site from south to north between the parking lot and Canterbury (i.e. barberry bushes).
- d. In the area immediately abutting the west side of the parking lot, provide a 100% screen from ground level to 3 feet to prevent car headlights from shining in windows of the fourplex. This could be accomplished by a low fence, or evergreen bushes such as yews, or junipers.
- e. Parking lot lighting to have cutoff fixtures, directed away from the west property line. (This item is required by city design standards.)
- f. Any licensed alcohol sales in the building on Lot 7 will be located in the east two-thirds of the building.

New Condition 2.18 No gasoline sales are permitted.

New Condition 2.19 Conditions 2.13 and 2.17 were negotiated with the neighbors and shall not be administratively amended but may be amended by Planning Commission.

RECEIVED

OCT 06 2010

Lincoln/Lancaster Co.  
Planning Department